

General Information Letter: General information on the training expense credit.

November 4, 1999

Dear:

This is in response to your letter dated November 2, 1999, which Mike Klemens forwarded to me for response. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

I appreciate your willingness to work with xxx to establish our ITEC tracking as part of our payroll processing. This is what we have discerned so far for tracking purposes:

- A. Compensation of employee for time spent training others.
- B. Compensation of employee for time spent preparing to train others.
- C. Compensation of employee for time spent in training.
- D. Cost of materials for training.
- E. Pro-rata rent of training facility or equipment used for training, or depreciation expenses of training facility/equipment owned by taxpayer.
- F. Cost of registration with state, federal or industry authorities, including allocable wages of employees performing the registration.
- G. Tuition reimbursement if the amounts were deducted in determining the employer's federal taxable income.
- H. Cost of travel and lodging if those costs were deducted in determining the employer's federal taxable income.

Here are some questions, specific and general:

- 1) If continuing education is mandated by a profession (such as a CPA), would the cost of those credits, travel to and from, and all related expenses be included in this credit?
- 2) What documentation must be provided by the taxpayer in addition to our per pay period tracking reports?
- 3) Is there a standard length of time that new hire wages would be eligible? If not, how is it determined?
- 4) If an employee functions as a full time corporate trainer, is that salary 100% eligible?
- 5) Are any unallocated payroll taxes or benefits eligible?
- 6) Please comment on any carry forward or retroactive credit.
- 7) Training expenses that have been disallowed.
- 8) Estimate of \$\$ taken since credit's inception, and more history for why the credit was developed.
- 9) Any scheduled termination for this program?

Response

Section 201(j) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/201 et seq.) allows a credit for:

all amounts paid or accrued, on behalf of all persons employed by the taxpayer in Illinois or Illinois residents employed outside of Illinois by a taxpayer, for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields, which were deducted from gross income in the computation of taxable income.

Mandated Continuing Professional Education

86 Ill. Adm. Code Section 100.2150(c) provides, in part:

2) The credit is for the amounts paid or accrued for educational or vocational training in semi-technical or technical or semi-skilled or skilled fields.

A) The terms "semi-technical or technical fields or semi-skilled or skilled fields" do not refer to any particular occupation. This statutory language authorizes the credit for the costs of training of an employee to improve that employee's job skills within the scope of his or her employment.

B) The credit will be authorized for the costs of job-linked training that offers special skills for career advancement or that is preparatory for, and leads to, a job with definite career potential.

The fact that training fulfills continuing professional education requirements does not, in itself, mean that the training qualifies for the credit. However, a field in which continuing professional education is mandated is very likely a "skilled" or "technical" field in which employment-related training will qualify. Also, the need for an employee to meet the professional requirements would tend to indicate that the training is employment-related. If the training qualifies for the credit, the eligible costs are determined in the same manner as for any other training.

Required Documentation

86 Ill. Admin. Code Section 100.2150(d)(3) provides:

Employers must maintain records sufficient to document that the training is eligible training. Employers must maintain records that document the amounts expended for eligible training expenses. An employer may maintain documentation as required for the Industrial Training Program of the Illinois Department of Commerce and Community Affairs (see 56 Ill. Adm. Code 2650.120), or as maintained by employers in compliance with the requirements of the Illinois Secretary of State's Workplace Literacy Program (see 23 Ill. Adm. Code 3040.220 and 3040.240) for purposes of documentation for the Training Expense Credit. Employers may claim the credit based upon average or standard costs of training each employee. The documentation of amounts expended for eligible training expenses, or documentation maintained to claim the credit based upon average or standard costs, must be sufficient to demonstrate that the training for which the credit is claimed is on behalf of persons employed by the taxpayer in Illinois, or Illinois residents employed outside of Illinois by the taxpayer, the training qualifies for the credit under the standards of subsection (b) of this Section above, and the expenditures are eligible training expenses under the standards of

subsection (d)(1) above. In the event an employer claims the credit based upon average or standard costs, this documentation must include detailed information concerning the methodology utilized in determining the average or standard costs.

Wages Paid to New Employees

The credit is allowed only for the costs of training. The fact that an employee is new or is designated as a trainee does not prove or even tend to show that the employee is engaged in qualified training at any particular time. Thus, there can be no standard length of time during which a new employee's wages will qualify for the credit.

Full-Time Trainers

If all of the training conducted by a full-time trainer is qualified training, the entire salary of that employee would qualify. However, if the employee is involved in training that does not qualify or is involved in activities that are not related to training, that employee's salary will have to be allocated between qualifying and nonqualifying activities.

Payroll Taxes and Employee Benefits

Payroll taxes and employee benefits are not costs of training and therefore do not qualify.

Credit Carryforward or Retroactive Credit

Section 201(j) of the IITA provides:

Any credit allowed under this subsection which is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first computed until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability the earliest credit arising under this subsection shall be applied first.

There is no provision for carrying credits back to earlier years.

Training Expenses Disallowed

No expense qualifies for the credit unless it is incurred for qualified training. Examples noted in 86 Ill. Adm. Code Section 100.2150(d)(2) of costs that do not qualify are compensation paid to an employee for "down time" when the employee cannot perform his or her job because, for example, there is no work. Costs associated with this down time cannot be classified as a cost of training by having the employee engage in informal training during the down time. Also, expenditures for meals provided during training are not training expenses. In general, however, the determination of whether training is qualified and whether a particular expense is incurred in connection with that training are factual questions that can rarely be answered in the abstract.

Estimated Amount of Credits Claimed

Approximately \$16 million in credits were claimed for 1997. The

History of the Credit

The Training Expense Credit was originally enacted into law as a training expense deduction by P.A. 83-650, the Prairie State 2000 Authority Act. Section 2 of that Act (20 ILCS 4020/2) states the purpose of the legislation as follows:

(a) The General Assembly finds that

(i) The State of Illinois possesses a highly talented, conscientious and industrious labor force, unmatched by any other state or nation;

(ii) Substantial changes being experienced in all economic sectors and the rapid growth of industries which employ new technologies have caused severe economic and employment dislocations in this State;

(iii) Such dislocations have caused substantial hardships for all people of the State of Illinois;

(iv) There exists a large surplus of workers throughout the State who are ready, willing and able to work but who lack the appropriate skills to perform the specialized tasks for modern business and industry;

(v) A significant barrier to re-employment and new employment is the financial cost of participation in high quality technical and educational programs which will qualify an individual for modern employment opportunities;

(vi) A substantial impediment to attracting new businesses and to encouraging the modernization of existing businesses in Illinois has been the shortage of workers who can perform the specialized tasks required by the new technologies of modern business;

(vii) It is the duty and responsibility of the State to offer educational and vocational training opportunities to its citizens.

(b) The General Assembly declares it is the policy of the State of Illinois to encourage continuing educational, technical and vocational training by providing a source of assistance to individuals who wish to improve their skills, talent and education and by providing training grants and loans to employers who are retraining workers threatened with layoff or who are increasing the number of jobs available to Illinois workers, are expanding the tax base in Illinois or are increasing Illinois exports.

(c) The purpose of this Act is to establish employment training programs which foster job creation, reduce employer unemployment costs, and meet the needs of the economy for skilled workers by providing job-linked training for unemployment insurance claimants and potentially displaced workers who could become such claimants.

The special deduction was converted into the current Training Expense Credit by P.A. 84-1405.

Scheduled Termination of Program

The IITA does not contain any provision that will terminate the training expense credit.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Paul S. Caselton
Deputy Chief Counsel -- Income Tax